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9-15-2017

# Board of Directors Meeting - Minutes 09/15/2017

UC Hastings Board of Directors

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**UNIVERSITY OF CALIFORNIA  
HASTINGS COLLEGE OF THE LAW**

**BOARD OF DIRECTORS  
OPEN SESSION MEETING MINUTES  
SEPTEMBER 15, 2017**

September 15, 2017, 9:00 a.m.  
The Palace Hotel  
Ralston Ballroom  
2 New Montgomery Street  
San Francisco, CA 94105

**1. ROLL CALL**

Board of Directors Present:

Chair Tom Gede  
Director Simona Agnolucci  
Director Don Bradley  
Director Tina Combs  
Director Marci Dracun  
Director Claes Lewenhaupt  
Director Chip Robertson  
Director Mary Noel Pepys  
Director Courtney Powers

Staff Present:

Chancellor & Dean David Faigman  
Academic Dean Morris Ratner  
Professor Gail Silverstein (Faculty Executive Committee)  
Chief Financial Officer David Seward  
Director of External Relations Alex Shapiro

Other Participants Present:

ASUCH President Samuel Chang  
Trustee Rob Sall

Chair Tom Gede called the meeting to order and the Secretary called the roll for the open session of the Board of Directors meeting.

2. **PUBLIC COMMENT**

Andres Ramos, current External President of ASUCH initiated the student government report by requesting the Board's support for DACA students enrolled at UC Hastings. He announced that ASUCH adopted a resolution strongly in support of the Dreamers, DACA, students in the UC Hastings community and support for the DREAM Act in general. He emphasized the significance of defining UC Hastings as an inclusive community.

Mr. Ramos commended Chancellor & Dean David Faigman for the proactive message he emailed to the UC Hastings community in support of Dreamers where he expressed a strong moral voice asking the community to strongly support Dreamers; but also, to use whatever official power you have to resist this unjust decision.

In response to questions regarding the number and identity of Dreamers attending UC Hastings, General Counsel Traynum explained that with the enactment of California legislations, UC Hastings adopted procedures to allow students to keep their citizenship, or lack thereof confidential. The UC Hastings community does not know the identity and number of Dreamers enrolled at UC Hastings.

3. **REPORT OF THE ASUCH PRESIDENT**

ASUCH President, Sammy Chang, was then introduced to discuss his written report as presented. Mr. Chang expounded on issues with campus security officers. There had been an incident with the security officers and certain LLM students that underscored the need to address the issues. He commended the Chancellor's office for meeting with concerned student constituents to attempt to resolve the issues. Chancellor & Dean David Faigman responded that when he heard about the incident between campus security and LLM students that were the victims of the various offenses, his office reached out and meetings were held with the students, Mr. Chang, and UCSF security commend staff. Also, Keith Hand, Associate Dean for Global Programs, met with the LLM students, as well. The point of the meetings was to deal with the incidents, but also to talk to LLM students about how best to protect themselves, not only in the UC Hastings Tenderloin neighborhood, but in San Francisco more generally.

Continuing his comments, Chancellor & Dean David Faigman informed everyone that last week he had a meeting with the chief and captain of UCSFPD. They discussed what happened and talked about initiatives that are going on between UCSFPD and San Francisco Police. There's \$6 million of federal money that's coming into San Francisco that's going to be directed to the Civic Center/Tenderloin area. It is expected that there will be immediate improvement to the area to make the community safer. Chancellor & Dean David Faigman commented however, inevitably, all must remember that UC Hastings is in an urban environment. UCSFPD will initiate a campaign on campus to alert student how to contact UCSFPD in the event of an emergency. UCSFPD will put up signs around the campus like you see in airports – "See Something, Say Something." Sammy Chang concluded his report by congratulating Director Claes Lewenhaupt on his retirement from the United States Army JAG Corps where he served with distinction and was awarded that Legion of Merit award.

Chair Tom Gede requested that everyone give a round of applause to and congratulate Director Lewenhaupt on receiving such a distinguished honor. He expressed to Director Claes Lewenhaupt how proud the Board and the UC Hastings community are of him. Chair Tom Gede added that Director Claes Lewenhaupt has been a great Director for UC Hastings despite the distance and the additional duties that he has had. "You've done a wonderful job, so congratulations."

4. **GENERAL CONSENT CALENDAR**

The following items submitted by the Finance Committee constituted the General Consent Calendar and were approved by a single vote of the Board of Directors. Approval of Minutes – June 2, 2017.

Noting that there were no corrections or deletions to the Minutes, the Minutes were approved and ordered filed as distributed.

5. **REPORT OF THE BOARD CHAIR**

**Report of the Chair of the Educational Policy Committee  
Presented by Academic Dean Morris Ratner**

Director Marci Dragun, Chair of the Educational Policy Committee, introduced Academic Dean Morris Ratner to give the Committee report. Dean Ratner presented a power point presentation on bar passage outcomes and analysis on bar passage. He noted that he was able within the last few weeks to finally crunch the numbers from the July 2016 bar exam.

*Below is a brief summary of Academic Dean Morris Ratner's presentation:*

The reason it took so long to get that data and to analyze it is that the bar gives us only school data for UC Hastings. It didn't give us student-data. The students gave us their data. It took from November when the College received the pass rate of 51 percent to June when we were able to get in touch with enough of our grads to have a sufficiently complete data set to do the – to acquire the data necessary to do the analysis we just completed last month.

Academic Dean Morris Ratner informed everyone that in some ways the 2016 data reinforced what the College learned from the July 2011 through July 2015 data sets, and in other ways presented new information from the July 2016 data set. He presented a slide that showed the relationship between the College's efforts to attract the students with the highest metrics and to retain students with the highest metrics to affect bar outcomes. He pointed out that the decline in every band was consistent with the decline in bar passage in the same period of time, between 2011 and 2016. Students at the 90th percentile all have lower metrics to the LSAT in 2016 than they did in prior years. Also, he noted that the College has experienced high transfer out rates for students with higher metrics. This was apparent in 2016 and even worse in 2017. The College is not expected to have that problem for the graduating class of 2018 because the College has taken intense measures to retain students with higher metrics. The College granted retention

scholarships. Also, the faculty members are more engaged with students, making personal connections so the students will feel more allegiance and support from the institution.

Continuing his report, Academic Dean Morris Ratner noted that the College has continuing challenges when you think about responding to bar pass problems on metrics of two types: admission and retention. LSAT is particularly important for admission to law school because it's predictive of law school GPA, but there's nothing that's more predictive of success on the bar than law school GPA itself. What's particularly troubling for UC Hastings is that we're seeing decay in the second quartile. So historically both of our top quartiles, the first and second quartile, have been very strong on the bar, and here in 2016 you can see compared to prior years that whereas, for example, in 2013 nearly 90 percent of our students in the 60 to 70 percent band of law school GPA passed the bar. We're down to 70 percent in 2016. And what's even more stunning for UC Hastings as a data point is that whereas in prior years at least some of its students in the bottom ten percent passed the bar – in 2011, for example, in the 5 to 7.5 percent band 60 percent of the students passed the bar – zero students in the bottom ten percent of our class passed the bar in 2016. So it shows challenges to us. This doesn't explain why we're seeing this, other than that we have lower metrics coming. This gives us a sense of the challenges that we face.

In response to an inquiry regarding the variability in performance over time in law school, Academic Dean Morris Ratner responded that someone who was in the top ten percent her 1L year may drift downward for various reasons. So what's really most predictive of performance on the bar exam is ending law school GPA rather than beginning GPA, although there still is a relationship between 1L GPA and bar outcomes.

Adding some sort of additional layer to our picture, LSAT and LGPA are predictive of bar outcomes, but they only predict a portion of our bar outcomes. What we have learned since we started crunching numbers in a serious way is that another major predictor of bar outcomes is average number of bar courses, specifically bar courses – upper division bar courses taken for a grade by our students. And what we see between 2011 and 2016 is a continuing decline in the average number of bar courses taken overall and the average number of bar courses taken for a letter grade. In 2016 it's the lowest in the period of time that we've been tracking this information. It's down to 4.07 – that's the fourth line there – 4.07 upper division bar courses on average taken for a grade, which means that between 2012, when we were in the 70s, and 2016, the year we had our first performance, our students took on average about one-third fewer upper division bar classes for a grade.

Students can take up to 10 or 12. So we don't think it's necessary for our students to take all of those bar courses. I would be happy if we could keep our students at six or slightly higher for taken for a grade, and so far we're on track to do that. That will take us back to historical levels of bar classes taken for a grade when we were in the 70s. I'd like to see maybe a slight increase on that, but I think that would go a long way towards addressing our bar passage issues. We have eliminated the credit/no credit option for upper division bar classes, but it doesn't kick in fully until this graduating class graduates. The 3Ls were grandfathered into the former system.

How could we experience a drop of that magnitude in a single year? So many of our students are questioning their ability to pass the bar. If everything goes their way, they'll pass. If anything knocks them off their game, they're likely to fail. That is – we're at risk of increasing volatility over time in our bar pass rate. Until we get more students comfortably within the individual probability of bar passage that are much higher than 50 percent, we'll consider to see years in which our bar pass rate fluctuates from a relatively high rate to a relatively low rate. There was something that was particular to the July 2016 exam that knocked our students off their game. And so a good number of our students who were just on that knife's edge went from being possibly likely to pass to failing.

My theory is with regards to DRP that only a small fraction of our DRP students are getting accommodations on the bar exam that we provide to them in law school, and so they're going into the bar exam without accommodations to which they're accustomed, and it's putting them at a disadvantage. And it's partly a result of the fact that the bar's accommodations process is an adversarial one and it makes it very difficult. The bar's approach is to provide the fewest accommodations possible. A bigger problem is that a good chunk of our students who get accommodations in law school simply aren't applying for those same accommodations on the bar exam. So we're working – right now I'm trying to fix that problem to get more of our students to timely apply for accommodations on the bar exam. There is a whole process that could be up to a year before the bar exam itself in which there's a period of an initial ruling and an opportunity for appeal. But that window shrinks considerably if our students wait until the end of their 3L year to initiate the process, and then they hardly have any time.

A lengthy discussion ensued on Academic Dean Ratner's presentation. The discussion was deferred to the Board/ Faculty retreat in the afternoon.

### **Report of the Chair of the Advancement and Communications Committee Presented by Chief Development Officer Eric Dumbleton**

Chief Development Officer Eric Dumbleton reported on gifts as distributed. He informed everyone that the money raised figure went up slightly, about four percent and the College was up slightly on unrestricted gifts. Centers and programs was flat, and capital was a bit down, primarily because the College took the gas off a little bit on capital fundraising efforts. He stressed that the College will be putting the pedal back down on that now that we have our design built team confirmed.

Chief Development Officer Eric Dumbleton reported that the received report was even better. Cash in the door was up about 23 percent. The increase was due to receipt of a significant bequest last year.

In the Building UC Hastings Campaign, the College raised about \$2.1 million thus far.

There are still some outstanding verbal commitments that we need to get closed. We've gone up slightly since then. We got about \$10,000.00 in since then, but keeping in mind that we've haven't really been out there actively on that front, which we want to kind of ramp up efforts again.

Chief Development Officer Eric Dumbleton reminded everyone that UC Hastings' homecoming and reunion weekend is October 19th through the 21st. He mentioned that Chancellor & Dean Faigman will continue the tradition of a debate with the students on trends. Last year the debate was on the Golden Gate Bridge versus the Bay Bridge. The Golden Gate Bridge won on the money, but the Bay Bridge won on the support from the students. This year the debate will be on sushi versus burritos.

Chief Development Officer Eric Dumbleton invited the Board to the ceremonial groundbreaking event taking place at 333 Golden Gate and the Foundation's Spring Soiree to take place at the Asian Art Museum on April 21, 2018.

As far as alumni engagement and annual giving, Chief Development Officer Eric Dumbleton mentioned that the College would sponsor UC Hastings Challenge for a fundraising challenge between alums and law firms. The College would retain a company called MobileCause to assist his colleague John McCoy.

Eric Dumbleton presented the slate of proposed new trustees for the UC Hastings Foundation Board. Chair Gede reminded everyone that the Operations Agreement between the College and the Foundation authorizes the Board to appoint 50 percent plus 1 of the Foundation Trustee Board. The slate presented at the meeting consisted of 8 applicants.

## **6. FINANCE COMMITTEE CONSENT CALENDAR**

The Finance Committee Meeting was held at UC Hastings in the A. Frank Bray Conference Room, San Francisco, California, on Thursday, August 10, 2017. By unanimous vote, the Finance Committee submits the following Consent Calendar. Anyone wishing to pull any item from the Finance Consent Calendar to discuss or act on, may request the Chair to remove the item from the Finance Consent Calendar. All remaining Finance Consent Calendar items shall be approved by the Board of Directors in a single vote without discussion.

- \*6.1 State Budget for 2017-2018 – Core Operations (Written)
- \*6.2 Non State Budget for 2017-18 (Written)
- \*6.3 State Contracts in Excess of \$50,000
- \*6.3.1 Student Loan Servicing – Educational Computer Systems, Inc. (Written)
- \*6.3.2 Library Data Services – Bloomberg BNA (Written)
- \*6.3.3 Library Data Services – LexisNexis (Written)
- \*6.3.4 Library Data Services – Westlaw (Written)
- \*6.3.5 Payroll Time reporting System – UC Regents (Written)
- \*6.3.6 Information Retrieval – Innovative Interfaces, Inc. (Written)
- \*6.4 Non State Contracts in Excess of \$50,000 (Written)
- \*6.4.1 Venue Rental Homecoming and Reunion – Fairmont Hotel (Written)
- \*6.4.2 LRCP Feasibility Review - Economic Planning Services (Written)

\*6.4.3 LRCP Project Support – Consulting Services – Kasey Asberry  
(Written)

\*6.5 Long Range Campus Plan – Project Updates and Predevelopment  
Budget

(Written)

\*6.6 Annual Update of Five Year Infrastructure Plan 2018-2023 State  
of California, Department of Finance

(Written)

\*6.7 Planning – Proposal to Develop an Environmental Sustainability Plan

(Written)

\*6.8 Hastings Series 2018 Bonds – Approval to Refinance

(Written)

\*6.9 Digardi Quasi Endowment – Approval to Augment

(Written)